

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the  
Accusation Against:

Max Miracle, M.D.  
License # A-18031

Respondent.

Case No. D-3937

ORDER GRANTING STAY ORDER

Respondent \_\_\_\_\_ has filed a request for a  
stay of execution of the Decision with an effective date of  
September 13, 1989.

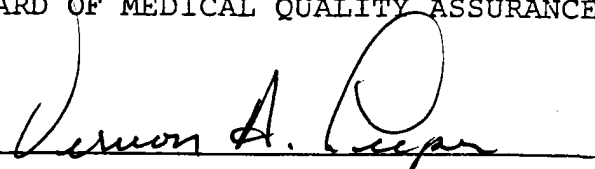
Execution is stayed until October 13, 1989.

This stay is granted solely for the purpose to allow  
time for the moving party to file a petition for reconsideration  
and to allow time for the Division to review and act on the  
petition for reconsideration.

Dated August 31, 1989

BOARD OF MEDICAL QUALITY ASSURANCE

By



VERNON A. LEEPER  
Chief - Enforcement

1 JOHN K. VAN DE KAMP, Attorney General  
of the State of California

2 JANA L. TUTON

Deputy Attorney General

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P. O. Box 944255

4 Sacramento, California 94244-2550

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5 Attorneys for Complainant

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8  
9 BEFORE THE  
DIVISION OF MEDICAL QUALITY  
10 BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation )  
Against: )

No. 3937

13 MAX V. MIRACLE, M.D. )  
14 216 South NE Blue Lake Rd. )  
Troutdale, OR 97060 )

DEFAULT DECISION

15 Physician's and Surgeon's )  
16 Certificate No. A-18031 )

17 Respondent. )  
18

19 On or about April 29, 1989, the respondent was served  
20 with an Accusation in case number D-3932, a Statement to  
21 Respondent, Notice of Defense in blank, and copies of relevant  
22 sections of the California Administrative Procedure Act, as  
23 required by sections 11503 and 11505 of the Government Code.  
24 Service was accomplished by certified mail directed to the last  
25 address for respondent on file with the Board of Medical Quality  
26 Assurance.

27 Respondent Max V. Miracle, M.D. failed to file a Notice

1 of Defense within the fifteen days allowed by section 11506 of  
2 the Government Code. As a result, the default of respondent was  
3 entered. Respondent has thereby waived his right to a hearing to  
4 contest the Accusation and the Division of Medical Quality now  
5 proceeds without hearing to take action based upon the  
6 Accusation, declarations and documentary evidence on file in  
7 accordance with Government Code sections 11505, subdivision (a)  
8 and 11520.

9 FINDINGS OF FACT

10 The allegations of the Accusation, a true and correct  
11 copy of which is attached and incorporated by reference herein,  
12 are found to be true.

13 DETERMINATION OF ISSUES

14 Pursuant to the foregoing Findings of Fact, respondent  
15 has committed acts constituting unprofessional conduct in  
16 violation of Business and Professions Code sections 2234 and  
17 2305.

18 DISCIPLINARY ORDER

19 WHEREFORE, the following order is made:

20 Physician's and surgeon's certificate number A-18031  
21 issued to Max V. Miracle, M.D. is revoked.

22 Respondent shall not be deprived of making any further  
23 showing by way of mitigation; however, such showing must be made  
24 in writing to the Division of Medical Quality, Board of Medical  
25 Quality Assurance at 1430 Howe Avenue, Sacramento, California  
26 95825, prior to the effective date of this decision.

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This decision shall become effective on September 13  
1989.

DATED: August 14, 1989

BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By *Theresa Claassen*

THERESA CLAASSEN, Secretary-Treasurer

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SA89AD0332

1 JOHN K. VAN DE KAMP, Attorney General  
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2 JOEL S. PRIMES  
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6 Attorneys for Complainant  
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9

10 BEFORE THE  
DIVISION OF MEDICAL QUALITY  
11 BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation )  
Against: )

No. D-3937

14 MAX V. MIRACLE, M.D. )  
15 216 South NE Blue Lake Rd. )  
16 Troutdale, Oregon 97060 )

ACCUSATION

17 Physician's and Surgeon's )  
Certificate No. A-18031 )

18 Respondent(s). )  
19

20 Kenneth Wagstaff, the complainant herein, alleges as  
21 follows:

22 1. He is the Executive Director of the Board of  
23 Medical Quality Assurance of the State of California (hereinafter  
24 the "Board") and makes these allegations in his official capacity  
25 as such and not otherwise.

26 2. On or about July 1, 1958, respondent Max V.  
27 Miracle, M.D. (hereinafter "respondent Miracle") was issued

1 physician's and surgeon's certificate number A-18031 under the  
2 laws of the State of California. Said certificate is presently  
3 in full force and effect.

4           3. Section 2234 of the Business and Professions Code  
5 (hereinafter the "Code") provides that the Division of Medical  
6 Quality of the Board of Medical Quality Assurance shall take  
7 action against a holder of a physician's and surgeon's  
8 certificate who is guilty of unprofessional conduct.

9           4. Section 2305 of the Code provides that the  
10 revocation, suspension or other discipline by another state of a  
11 license or certificate to practice medicine issued by the state  
12 to a licensee under this chapter shall constitute grounds for  
13 disciplinary action for unprofessional conduct against such  
14 licensee in this State.

15           5. Respondent Miracle is subject to disciplinary  
16 action pursuant to sections 2234 and 2305 of the Code in that his  
17 certificate to practice medicine has been disciplined in another  
18 state as more particularly alleged hereinafter:

19           A. On or about September 12, 1987, In the Matter of  
20 Max V. Miracle, M.D., before the Oregon Board of Medical  
21 Examiners, the board issued an order revoking respondent  
22 Miracle's license to practice medicine and staying the order for  
23 ten years on specified terms and conditions. A true and correct  
24 copy of the order of discipline is attached hereto as Exhibit "A"  
25 and incorporated herein by reference.

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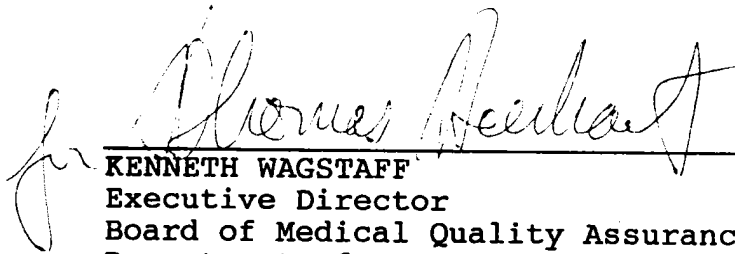
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1           WHEREFORE, complainant prays that the Division of  
2 Medical Quality hold a hearing on the matters alleged herein and  
3 following said hearing issue a decision:

4           1. Suspending or revoking the physician's and  
5 surgeon's certificate issued to Max V. Miracle, M.D.; and

6           2. Taking such other and further action as may be  
7 proper.

8 DATED: April 20, 1989

9   
10 KENNETH WAGSTAFF  
11 Executive Director  
12 Board of Medical Quality Assurance  
13 Department of Consumer Affairs  
14 State of California

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27 Complainant

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**EXHIBIT A**



BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF OREGON

12th DAY OF SEPT. 1987  
Dr. Hugh B. Johnston  
Secretary - Treasurer

In the matter of: ) FINDINGS OF FACT, CONCLUSIONS OF LAW,  
) ORDER OF REVOCATION AND TERMS OF  
MAX V. MIRACLE, M.D. ) PROBATION

The licensee MAX V. MIRACLE, M.D. in the above-entitled matter having  
admitted the facts as set forth in the Complaint filed before the Board on  
the 21st day of August 1987 and the matter having come on for discussion  
before the Board of Medical Examiners on the 12th day of September 1987,  
and the Board having heard the Investigative Committee's report that the  
licensee admitted to the inappropriate prescribing of a controlled substance  
and the licensee having waived an Administrative Hearing, the Board does make  
the following Findings of Fact, Conclusions of Law and Order:

I

That MAX V. MIRACLE, M.D. is a physician license to practice medicine  
in the State of Oregon.

II

That licensee, in the last year, has treated several children alleged  
to be hyperactive by prescribing Ritalin, a controlled substance.

III

The licensee relied upon the judgment of the patients' teachers that  
the patients were hyperactive without properly examining the patients and  
without obtaining independent documentation and history.

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IV

That licensee failed to properly examine patients and record their medical histories prior to prescribing Ritalin constitutes unprofessional conduct (ORS 677.190 (1) within the meaning of ORS 677.188 (4) (c).

V

That licensee's conduct, as described herein, constitutes a violation of ORS 677.190 (25), prescribing controlled substances without a legitimate medical purpose and without following accepted procedures for examination of patients and record keeping.

VI

That licensee's conduct, as described herein, constitutes grounds for disciplinary action, including the revocation or suspension of licensee's license to practice medicine in the State of Oregon pursuant to ORS 677.205.

IT IS NOW ORDERED AND ADJUDGED that the license to practice medicine in the State of Oregon of MAX V. MIRACLE, M.D. is hereby revoked, provided however, that execution of this Order is stayed and the licensee is placed on ten (10) years probation under the following terms and conditions:

1. Licensee shall not prescribe, administer, or dispense any Schedule II, III, IV, or V drugs as defined under Federal Statutes, Oregon State Law, or Administrative Rules, except on patient charts in a hospital where he has privileges.
2. Licensee shall participate in the Risk Assessment and Management Program (RAMP) of the Oregon Medical Association until such time as the RAMP coordinator shall deem it appropriate to terminate participation. Licensee shall pay all costs of participation in the RAMP program. The RAMP coordinator may require a reasonable CME program for 1 year following termination of the RAMP program.

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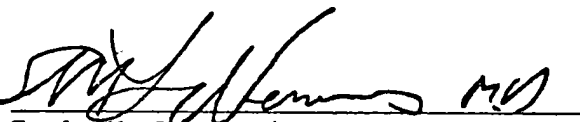
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- 1 3. Licensee shall participate in continuing education programs  
2 approved by the Board of at least 50 hours per calender year.
- 3 4. Licensee shall cause reports of his progress and performance  
4 to be submitted to the Board by the RAMP coordinator, prior  
5 to the first day of the months of January, April, July, and  
6 October of each year unless ordered to do otherwise by the Board.
- 7 5. Licensee shall notify the administratior and the chief of staff  
8 of any hospital in which he has privileges of the terms of his  
9 probation.
- 6 6. Licensee shall report in person to the Board of Medical Examiners  
7 at each of its regular meetings held in Portland, Oregon during  
8 the months of January, April, July and October of each year  
9 commencing in October 1987 unless ordered to do otherwise by  
the Board.

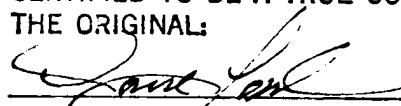
10 Evidence of violation of any of the above conditions of ORS 677.190  
11 shall give the Board cause to terminate licensee's probationary status  
12 and invoke suspension or revocation of his license.

13 IT IS FURTHER ORDERED that a copy of this Order shall be filed with the  
14 Secretary of the Board of Medical Examiners and a certified copy of same  
15 shall be served upon the licensee.

16 DATED at Portland, OR this 12th day of September 1987.

17  
18   
19 Earle M. Levernois, M.D., Chairman  
20 Board of Medical Examiners

21  
22 CERTIFIED TO BE A TRUE COPY OF  
23 THE ORIGINAL:

24   
25 Notary Public for Oregon

26 My Commission Expires 6/12/92